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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERKIN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
(AUSTIN DIVISION)

FILED

NOV 21 2011

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERKBOBBY JONES, Pro-se
Plaintiff,

§

VS.

§

CASE NO: 1-11-cv-850-ly-AWAMARKUS A. GREEN, DR. ROBY
MITCHELL, THE TRAVIS COUNTY
DISTRICT ATTORNEY, AND THE
EXECUTIVE DIRECTOR of the
TEXAS BOARD OF MEDICAL
EXAMINERS,
Defendants,

§

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DEFENDANT'S, MARKUS A. GREEN'S, FIRST
MOTION TO DISMISS DEFENDANT'S TRAVIS
COUNTY DISTRICT ATTORNEY'S , MOTION
FOR LEAVE TO FILE A MOTION TO AMEND
(DISGUISED AS A "REPLY")*(with Exhibits "X", and "Y")*

COMES NOW, DEFENDANT, MARKUS A. GREEN, TDCJID #1118715, appearing through Pro se representation, to file this his **FIRST MOTION TO DISMISS**, and in support would show this COURT the following:

I.

In his GENERAL DENIAL/OBJECTIONS to the TRAVIS COUNTY D.A.'S MOTION TO REMAND, the defendant, MARKUS A. GREEN, Pro-se, presented denials and objections in subsections "I." and "II.", and the defendant, TRAVIS COUNTY D.A. utterly failed to reply to a single denial or objection;

FOR EXAMPLE: 1) subsection "II." GREEN asserted that he is held to a less stringent standard under the HAINES DECISION, and the TRAVIS COUNTY D.A. failed to reply; SEE Exhibit X, enclosed.

2) On page 2, line 3, subsection "b)", GREEN asserted that the caselaw cited by the TRAVIS COUNTY D.A. (DOE, FRANK) were in support of removals made pursuant to 28 U.S.C. §1441, yet, TRAVIS COUNTY D.A. has failed to reply to that assertion.

3). On page 2, line 7-11, subsection "c)" GREEN asserted that he filed his removal within the guidelines of §1446(b), yet, the TRAVIS COUNTY D.A. has failed to reply to this assertion.

4) On page 3, paragraph 1, GREEN Asserted that the HOLMES, and RODRIGUEZ, decisions relied upon by the TRAVIS COUNTY D.A. were not applicable to GREEN, and the D.A. has failed to reply to GREEN'S assertions.

5) On page 3, paragraph 2, GREEN asserted that BOBBY JONES' claims were not the basis for this COURT'S jurisdiction pursuant to 28 U.S.C §1443 as alleged by the D.A., yet the D.A. has failed to reply to that assertion.

II.

In her "REPLY" under subsection "I" "ARGUMENT" (SEE Exhibit Y) the TRAVIS COUNTY D.A. has attempted to lay out the standard for filing a removal under 28 U.S.C. §1443(1) that she utterly failed to argue and assert in her Original MOTION FOR REMAND, and her attempt to now amend her Original MOTION FOR REMAND with a MOTION FOR LEAVE TO FILE AN AMENDED MOTION TO REMAND; Innocuously veiled and camouflaged as a "REPLY" is non-compliant with rule 15(a) of the F.R.C.P., because she has neither obtained the consent of the defendant, GREEN, nor the consent of this COURT, and the time for filing an amendment w/o consent has long since expired.

FURTHERMORE, it is not (the "REPLY") compliant with 28 U.S.C. §1447(c), which requires that a MOTION FOR REMAND, (even one disguised as a "REPLY") must be filed within 30 days of the filing of a NOTICE OF REMOVAL. Therefore, her amended MOTION FOR REMAND is now time-barred under both rule 15(a) F.R.C.P. and 28 U.S.C. §1447(c) in addition to being non-complaint for its failure to obtain consent from GREEN, or this COURT.

III.

CONCLUSION AND PRAYER

WHEREFORE PREMISES CONSIDERED, GREEN PRAYS that this COURT WILL DENY THE TRAVIS COUNTY D.A.'S MOTION FOR LEAVE TO FILE AN AMENDED REMAND (disguised as a "REPLY") as Non-compliant with Rule 15(a) and 28 U.S.C. §1447(c) and, or because this COURT LACKS

jurisdiction to hear a **TIME-BARRED** motion; that this COURT will also **GRANT** defendant MARKUS A. GREEN, any additional relief he is justly entitled to in equity and in law

SIGNED ON THIS 17 DAY OF November 2011.

by: Markus A. Green

MARKUS A. GREEN #1118715
NEAL UNIT FACILITY I-221-b
9055 SPUR RD. 591
AMARILLO, TEXAS 79107.

CERTIFICATE OF SERVICE

I, MARKUS A. GREEN, do hereby **certify** that a true and correct copy of the foregoing was ~~electronically~~ filed with the COURT which was signified by mailing it in the prison mailbox postage prepaid on NOVEMBER 18, 2011; and that the parties listed below were also mailed copies on the same day:

Mrs. SHERINE E. THOMAS
P.O BOX 1748
AUSTIN, TEXAS 78767
Attorney for Travis County
District Attorney Rosemary Lehmberg

TED ROSS
ASSISTANT ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL OF TEXAS
ENVIRONMENTAL PROTECTION AND ADMINISTRATIVE
LAW DIVISION
P.O. BOX 12548
AUSTIN, TEXAS 78711-2548

BOBBY JONES, #679520
NEAL UNIT 9055 SPUR RD. 591
AMARILLO, TEXAS 79107
PLAINTIFF PRO SE.

SIGNED ON THE 17 DAY OF November 2011.

Markus A. Green
MARKUS A. GREEN #1118715
NEAL UNIT FACILITY
9055 SPUR RD. 591
AMARILLO, TEXAS 79107.

November 19, 2011

Dear Clerk,

I was unable to send the parties copies of exhibits "X" and "Y" because I only had one copy (given to me by defendant P.A.) and on this unit we are not allowed to purchase zerox copies.

Please provide the parties with copies of the exhibits. Thanks Again

Jeffrey J. [Signature]

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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

#1118715
Markus A. Green
real unit facility E-221-B
9055 Spur Rd 591
Amarillo, Texas 79107

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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

Clerk, U.S. District Court
Western District of Texas
United States Courthouse
200 W. 8th Street, Room 130
Amarillo, Texas 79101-9620

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